

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

STEPHEN CHRISTOPHER NOVATNE,)	
)	
Plaintiff,)	NO. 3:19-cv-00821
)	
v.)	JUDGE RICHARDSON
)	
F/N/U ELROD, ET AL.,)	
)	
Defendant.)	

ORDER

Pending before the Court is a Report and Recommendation of the Magistrate Judge (Doc. No. 99), recommending that this action be dismissed with prejudice under Rule 41(b) for Plaintiff Stephen Christopher Novatne's failure to prosecute. No Objections to the Report and Recommendation have been filed.¹

¹ Plaintiff mailed a letter to the Court dated October 5, 2021 labeled "Response + Argument + Evidence of Postage," which was received by the Clerk of Court on October 25, 2021. In this letter, Plaintiff details his difficulties sending and receiving legal mail and his belief that he has not received from Defendants certain DVD footage dated June 7th which he contends is necessary to defend his case. (Doc. No. 110 ("Response") at 1-3). But even considering that "[p]ro se complaints are to be held to less stringent standards than formal pleadings drafted by lawyers and should therefore be liberally construed." *Williams v. Curtin*, 631 F. 3d 380, 383 (6th Cir. 2011) (internal quotation marks and citation omitted), the Court cannot construe Plaintiff's Response to be an Objection to the Report and Recommendation. *See also Brown v. Matauszak*, 415 F. App'x 608, 613 (6th Cir. 2011) ("a court cannot create a claim which [a plaintiff] has not spelled out in his pleading") (internal quotation marks and citation omitted); *Payne v. Sec'y of Treas.*, 73 F. App'x 836, 837 (6th Cir. 2003) (affirming *sua sponte* dismissal of complaint pursuant to Fed. R. Civ. P. 8(a)(2) and stating, "[n]either this court nor the district court is required to create Payne's claim for her"). Plaintiff's Response makes no mention of the Report and Recommendation whatsoever, let alone raise specific objections to the Report and Recommendation's contents. For these reasons, the Court finds that Plaintiff has not objected to the Report and Recommendation and proceeds accordingly.

The failure to object to a report and recommendation releases the Court from its duty to independently review the matter. *Frias v. Frias*, No. 2:18-cv-00076, 2019 WL 549506, at *2 (M.D. Tenn. Feb. 12, 2019); *Hart v. Bee Property Mgmt.*, No. 18-cv-11851, 2019 WL 1242372, at * 1 (E.D. Mich. March 18, 2019) (citing *Thomas v. Arn*, 474 U.S. 140, 149 (1985)). The district court is not required to review, under a de novo or any other standard, those aspects of the report and recommendation to which no objection is made. *Ashraf v. Adventist Health System/Sunbelt, Inc.*, 322 F. Supp. 3d 879, 881 (W.D. Tenn. 2018); *Benson v. Walden Security*, No. 3:18-cv-0010, 2018 WL 6322332, at *3 (M.D. Tenn. Dec. 4, 2018). The district court should adopt the magistrate judge's findings and rulings to which no specific objection is filed. *Id.*

Nonetheless, the Court has reviewed the Report and Recommendation and the file. The Report and Recommendation is adopted and approved. Accordingly, this action is **DISMISSED WITHOUT PREJUDICE** under Rule 41(b) for Plaintiff's failure to prosecute, and the Clerk is directed to close the file. This Order shall constitute the final judgment in this case under Fed. R. Civ. P. 58.

IT IS SO ORDERED.


ELI RICHARDSON
UNITED STATES DISTRICT JUDGE